

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA ex rel.)	
CARLOS ESPINOZA,)	
)	
Petitioner,)	
)	
v.)	Case No. 15 C 888
)	
TOM SPILLER, Warden,)	
Pinckneyville Correctional Center,)	
)	
Respondent.)	

MEMORANDUM ORDER

In response to the 28 U.S.C. § 2254 Petition for Writ of Habeas Corpus ("Petition") filed by counsel for Carlos Espinoza ("Espinoza") to challenge Espinoza's state court bench trial conviction on charges of first degree murder, attempt first degree murder and aggravated discharge of a firearm, this Court promptly examined the Petition and found it to be untimely filed. Because untimeliness is an affirmative defense rather than a jurisdictional bar, this Court's February 10, 2015 memorandum opinion and order ("Opinion") both set out its analysis on the timeliness front and inquired of the respondent Warden's counsel, the Office of the Illinois Attorney General, whether it wished to assert or to waive that available limitation defense.

On February 20 the Assistant Attorney General assigned to the case filed this brief Statement as to Time-Bar Defense:

Respondent wishes to assert the defense that petitioner's 28 U.S.C § 2254 habeas petition is time-barred.

That being the case, this Court dismisses both the Petition and this action as untimely filed, a dismissal that is with prejudice.



Milton I. Shadur
Senior United States District Judge

Date: February 23, 2015